APPENDIX

IN THE SUPREME COURT OF FLORIDA
JANUARY TERM, A. D. 1967
TUESDAY, MAY 16, 1967

DISTRICT COURT OF APPEAL, FIRST DISTRICT

CASE No. 36,283

COASTAL PETROLEUM COMPANY, a Florida corporation,
Petitioner,

v.

HAYDON BURNS, ETC., ET AL., *Respondents,*

This cause having heretofore been submitted to the Court on Petition for Writ of Certiorari, jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Florida Appellate Rule 4.5 c (6), and it appearing to the Court that it is without jurisdiction, it is ordered that the Petition for Writ of Certiorari be and the same is hereby denied.

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA
JULY TERM, A. D. 1966.

CASE No. H-329

HAYDON BURNS, Governor of the State of Florida; RAY E. GREEN, State Comptroller; BROWARD WILLIAMS, State Treasurer; EARL FAIRCLOTH, Attorney General; DOYLE CONNER, Commissioner of Agriculture, as and constituting the TRUSTEES OF THE INTERNAL IMPROVEMENT FUND OF THE STATE OF FLORIDA, *Appellants*,

v.

COASTAL PETROLEUM COMPANY, a Florida corporation, *Appellee*.

Opinion filed November 15, 1966.

An Appeal from the Circuit Court for Leon County.

Hugh M. Taylor, Judge.

Earl Faircloth, Attorney General; and J. Kenneth Ballinger, Assistant Attorney General, for Appellants.

Ervin, Pennington, Varn & Jacobs, and Macfarlane, Ferguson, Allison, Kelly and Himes, for Appellee.

Not Final Until Time Expires to File Rehearing Petition and Disposition Thereof If Filed

RAWLS, Chief Judge.

The Trustees of the Internal Improvement Fund appeal from a final declaratory decree holding that the water bottom of Lake Hancock was included within an oil and mineral lease executed by the Trustees to Coastal Petroleum Company.

The sole question on this appeal is whether Lake Hancock was included within the terms of Drilling Lease No. 224-B as Modified.

In order to construe the lease instrument it is necessary to review the history of same. In 1941 the Trustees of the Internal Improvement Fund believed that there was a possibility of discovering oil in the coastal waters of Florida which could result in royalties to the State. Toward this end they granted exploration contracts containing options to lease to various companies covering the coastal areas on the Gulf of Mexico, but the trustees had previously decided unanimously that they would *not* accept any applications for exploration contracts in the Atlantic areas north of the northern limits of Monroe County.

On July 29, 1941, Arnold Oil Exploration, Inc., through its president Mr. Arnold, requested an exploration contract covering a Gulf area commencing at the Apalachicola Bay and running to a point below Charlotte Harbor, and he also requested Lakes Okeechobee, Kissimmee, Istokpaga, Tohopekaliga, East Tohopekaliga, Apopka, George, Weir and Lochloosa. These lakes drain into the Atlantic Ocean or are a part of the Atlantic watershed. Pursuant to this request Arnold Oil was granted Exploration Contract #224 covering the coastal area requested but not the requested lakes. This contract granted exploration rights and an option to lease state-owned water bottoms of three classifications:

"Off Shore Areas:

"All water bottoms of the Gulf of Mexico within three (3) leagues (10.36 Statute Miles) of the ordinary high water mark . . .

"Bays, Sounds, Bayous:

"All submerged lands and water bottoms in all bays, sounds, and bayous . . .

"Rivers and Lakes:

"The bottoms of and water bottoms adjacent to any such Rivers and Lakes as are specifically named herein

and which flow through natural channels into the Gulf of Mexico, as follows:.

"Myakka, Manatee . . . [Naming 24] Peace . . . Rivers." *No lakes are named.*

The Contract then classifies the state-owned water bottoms: Class (a) as coastal off shore areas, Class (b) as bays, bayous, sounds, and "Class (c): Inland waters, shall consist of *all rivers and lakes named herein, together with all connecting sloughs, arms and overflow lands located in such waters.*" (Emphasis supplied.) In specifying the size of each exploration unit it provides:

"An exploration unit in Class (c) shall be limited in area to one river or one lake (except where rivers and/or lakes are within ten (10) miles of one another, in which case *all rivers and/or lakes so existing and named herein* shall be included in one unit), *together with all sloughs, and overflow or submerged lands, located therein and connected therewith,* owned by the State." (Emphases supplied.)

Exploration Contract #224 does not mention the word "river" or "lake" in any other place other than those quoted herein. With the exception of the general provision to be included in all contracts,[1] each time the phrase "rivers

[1] In order to protect State Parks the Trustees voted to include a general provision in all contracts providing for elimination of any areas that might conflict with State Park and Forest property. This general provision appears in Exploration Contract #224, to wit:

"It is specifically understood and agreed that this contract shall not apply to any lake, whether named herein or not, lying within, or partially within, the boundaries of any State Park, nor shall this contract apply to those parts of any river or stream, whether named herein or not, within the boundaries of any State Park, nor to the upstream portion of any river or stream passing into or through any such State Park."

and lakes" is included it is limited by the words "named herein."

Six days after the execution of the Exploration Contract the Trustees discussed whether or not the lake bottom areas were a part of Mr. Arnold's original proposal, and it was their unanimous opinion throughout the negotiations that the lake bottoms were not to be included in the contract of Mr. Arnold and that the Trustees were not then considering leasing any new areas.

In 1942 Arnold applied for an Exploration Contract covering the St. Johns River and 12 designated lakes on the basis of hardship since he had already made tentative explorations in these areas. At a meeting of the Trustees private persons protested leasing Lakes Monroe, Harney, Jessup, and Puzzle and without debate these protested lakes were excluded by the Trustees. Thereupon Arnold was granted a separate contract, No. 248, covering the named lakes and part of the St. Johns River.

In 1946 there was considerable debate among the Trustees as to whether Arnold was entitled to exercise his option for oil and mineral leases on the property designated in the exploration contracts due to his failure to completely comply with the terms of the contracts. However, pursuant to Exploration Contract #224, Drilling Leases 224-A and 224-B were executed after the Trustees heard letters of protest and determined that laws enacted in 1945 were sufficient to control oil wells in a manner which would preserve the valuable beaches of the coastal communities.

Thereafter, Arnold Oil transferred its interest to Coastal Petroleum Company. About the same time litigation between the U. S. and the State of California involving title to oil rights of California Tidewater Lands, threw a cloud on Florida's title to a portion of the Gulf bottoms covered in the leases 224-A and B. For this reason and because other provisions of the leases "appear difficult of construc-

tion, and require clarification as between the said parties," Drilling Lease No. 224-B as Modified and Drilling Lease No. 224-A as Modified were executed on February 27, 1947. These modified leases differed in a number of ways from the Exploration Contract and the original leases particularly in the type of water bottoms to be contained in each drilling block. The modified leases provided for the first time that all state-owned water bottoms of all three classes shall be contained in each specified drilling block.

Drilling Lease No. 224-B as Modified describes the three types of water bottoms covered as (1) areas of the Gulf of Mexico, (2) bays, sounds and bayous of the Gulf, and (3):

> "Also the *bottoms of and water bottoms adjacent to the rivers hereinafter named* which flow through natural channels in the Gulf of Mexico, to wit: Myakka, Manatee, Little Manatee, Alafia, Caloosahatchee (from its mouth to LaBelle Bridge), *Peace River to Township 29/30,* included within said Drilling Blocks 5, 6, 7 and 8 as shown on said map." (Emphases supplied.)

It was by his construction of this section that the Chancellor found that Lake Hancock was a "water bottom adjacent to" Peace River. We compared the first phrase underlined above with the words from the Exploration Contract wherein it describes the water bottoms covered therein as follows:

> "The bottoms of and water bottoms adjacent to *only such Rivers and Lakes as are specifically named herein* and which flow through natural channels into the Gulf . . ." (Emphasis supplied.)

We note that almost the same wording is used except the lease leaves out the words "and lakes," and it limits the Peace River to the line between Townships 29 and 30, which is a point south of Lake Hancock. In two other places the modified lease refers to the inland water bottoms covered

therein. First, in describing what bottoms shall comprise each drilling block, the lease lists (1) Gulf bottoms, (2) bays, bayous and sounds, and (3) "all rivers and lakes *named herein,* together with all connecting sloughs, arms and overflow lands located in such waters." (Emphasis supplied.) Secondly, in specifying which drilling block these inland waters will be considered a part, the modified lease stated:

> "All rivers, sloughs, arms and overflow lands included in the above blocks are to be considered a part of that particular drilling block into which the respective river, slough, arm or overflow land drains or empties."

We find it difficult to construe the words "bottoms of and water bottoms adjacent to the rivers hereinafter named" to include Lake Hancock as a portion of Peace River for several reasons.

It is admitted that Lake Hancock is not mentioned in any of the lease documents but is a sovereign body of navigable water meandered by the government and within the jurisdiction of the Trustees. It is also admitted that Lake Hancock is the headwater of Peace River and flows through natural channels into the Gulf of Mexico. Lake Hancock does not flow directly into Peace River. Instead it drains into Cohanzy Creek which flows into Peace Creek which empties into Peace River. The southern portion of Peace River, from its mouth northward to the line between Townships 38/39, is meandered and within the jurisdiction of the Trustees. However, Peace River north of Township 38/39 is not meandered and does not belong to the State. That is, Peace River for a distance of 40 miles south of Lake Hancock is in private ownership.

In all the pertinent documents rivers and lakes are referred to in a context indicating that the parties considered them two separate entities. In that portion of the instruments describing the water bottoms in which the

oil and mineral rights are conveyed, in each and every instance where the words "rivers" and "lakes" are mentioned, they are followed by the words "specifically named herein", "hereinafter named" or words of similar import. Furthermore, these documents contain additional descriptive phraseology that offers a reasonable and logical explanation as to what is meant by the words "water bottoms of and water bottoms adjacent to the rivers hereinafter named." These explanatory words are "together with all connecting sloughs, arms and overflow lands." To construe this phrase, which appears twice in both the modified lease and the Exploration Contract, to include a lake which feeds a river would be to defy the accepted and usual meaning of the terms chosen by the parties. Webster's New Collegiate Dictionary defines "arm" as "an inlet of water, as from the sea," and defines "inlet" as "a recess in a shore; a narrow strip of water running into the land or between islands; . . . That which is let in . . ." Therefore, since the river does not back up into or feed Lake Hancock, the lake is not an inlet or "arm" of the river.

We find that oil and mineral rights in Lake Hancock were not conveyed by the lease instruments. Had the contract and lease intended to include all state-owned water bottoms which were connected by natural streams to the named rivers, they could have easily done so rather than using all the additional descriptive words. Furthermore, if no credence is given to the words "Peace River to Township 29/30," can the lessees also ignore the other limitations contained in the leases such as "Caloosahatchee from its mouth to LaBelle Bridge" and "that part of St. Johns River, South of Lake Puzzle?" Our conclusion gives full effect to all words chosen and used by the parties in the contracts.

We do not find the lease sufficiently indefinite to justify relying upon extrinsic evidence. However, the extrinsic evidence introduced is consistent with our conclusion.

The basic premise of the chancellor's decision hinges upon a letter written by Arnold to the Trustees on October 4, 1941, the day the Exploration Contract was executed, in which he said:

> "Your Honorable Board has elected to exclude all lakes and rivers, the waters of which do not drain into the Gulf of Mexico from the contract being executed in our favor."

The chancellor found that this letter clearly implied that the Exploration Contract of October 4, 1941, did include those lakes which drain into the Gulf. In so holding he overlooked the fact that all the lakes requested by Arnold were those which drained into the Atlantic, and in that year, 1941, the Trustees had already agreed that they would not grant Exploration Contracts in the Atlantic area north of Monroe County, although they were eager to have the Gulf areas explored and leased. We find the wording in the letter indicated that if the lakes requested by Arnold had been ones draining into the Gulf, the Trustees would have considered such requests as to named lakes on an individual basis; however, no such specific proposal was furnished by Arnold.

The chancellor also relied upon a statement appearing in the Trustees' minutes concerning an abatement of rentals on lands to which the State's title was clouded due to the California decision which affected only tidelands. At the Trustees' request their engineer F. C. Elliott prepared a report to facilitate their determination of the amount of abatement due Coastal under its leases. This report set forth a judgment estimate of the number of acres contained in each of the same three classifications designated in the Exploration Contract—the third classifications being Rivers and Lakes. The Trustees discussed whether abatement of rentals applied to that classification and decided that it did not. We do not find that this report or discussion adds any insight as to the intent of the parties.

We conclude that the lease documents meant exactly what they said; that is, that the water bottoms covered included only those rivers and lakes named therein. Since Lake Hancock was not named, it was not included; on the contrary, it was specifically excluded by the words, "Peace River to Township 29/30".

REVERSED.

WIGGINTON and CARROLL, DONALD K., JJ., Concur.

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA
JANUARY TERM, A. D. 1967.

CASE No. H-329

HAYDON BURNS, Governor of the State of Florida; RAY E. GREEN, State Comptroller; BROWARD WILLIAMS, State Treasurer; EARL FAIRCLOTH, Attorney General; DOYLE CONNER, Commissioner of Agriculture, as and constituting the TRUSTEES OF THE INTERNAL IMPROVEMENT FUND OF THE STATE OF FLORIDA, *Appellants*,

v.

COASTAL PETROLEUM COMPANY, *Appellee*.

Opinion filed February 7, 1967.

An Appeal from the Circuit Court for Leon County.

Hugh M. Taylor, Judge.

Earl Faircloth, Attorney General; and J. Kenneth Ballinger, Assistant Attorney General, for Appellants.

Ervin, Pennington, Varn & Jacobs, and Macfarlane, Ferguson, Allison, Kelly and Himes, for Appellee.

On Petition for Rehearing

RAWLS, Chief Judge.

Appellee Coastal Petroleum Company has filed a lengthy petition for rehearing which indicates that this

court's decision is not clear to the Appellee in several respects. It complains in particular that this court failed to give credence to the testimony of Appellee's expert witness who testified that Lake Hancock is located within the limits of Drilling Block 5. For the sake of clarity the following is added.

Our holding recognized that if the Exploration Contract gave Appellee's predecessor the option to lease Lake Hancock, and that option was properly exercised, then the Lake could not be excluded from the lease.[1] However, the Exploration contract did not give the lessee an option on all waterbottoms owned by the State within the territories described but only those specified therein. These included "bottoms of and water bottoms adjacent to *only* such Rivers *and* Lakes as are specifically named" which included Peace River. It further provided, "the areas covered by this contract shall be . . . all rivers and lakes named herein, together with all connecting sloughs, arms and overflow lands located in such waters." The verbiage chosen by the parties shows a clear intent that rivers and lakes are two separate entities, and that the adjacent water bottoms included in the contract are all connecting sloughs, arms and overflow land of Peace River. Should any doubt exist asto whether this construction is correct, it is alleviated by the more definite description appearing in the lease.

The stated purpose of Drilling Lease No. 224-B as Modified was to clarify former provisions which appeared difficult of construction, and it made clear that Lake Hancock was not included in the Drilling Lease by granting rights in the water bottom of Peace River only to Township 29/30.

This brings us to the testimony of Appellee's expert that Lake Hancock is within the limits of Drilling Block 5. If Lake Hancock is part of Peace River, as Appellee contends,

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[1] See Collins v. Coastal Petroleum, 118 So. 2d 796 (Fla. App. 1st, 1960).

it is in Drilling Block 7 under the explicit terms of the lease.

The northern and southern boundaries of each drilling block are described in the lease as a "*projection westward from the shore of the township line*" designated. The map attached to the lease designates the northern and southern boundaries of each block by a heavy line projecting *westward* from the mainland and passing only through coastal and intracoastal waters to a point 10.36 statute miles seaward from the outermost land, which is the western boundary. The lease further provides that all rivers are to be considered a part of the drilling block into which they empty. Peace River empties into Charlotte Harbor in Drilling Block 7. Therefore, all of Peace River which was conveyed, whether it be directly east of Drilling Blocks 5 or 6 or where ever located, is a part of Drilling Block 7.

The lease describes the western, northern, and southern boundaries as *lines* (the last 2 projecting *westward* from the shore), but it describes the eastern boundary thusly: "the eastern boundary shall include the *areas* as described in Exploration Contract." That contract provides, "the *areas* covered by this contract shall be . . . Inland waters, [which] shall consist of all rivers and lakes named herein, together with all connecting sloughs, arms . . ." We conclude Drilling Block 7 has within its eastern boundary Peace River from its mouth to Township 29/30. A construction of the least [sic] which allows the northern and southern boundaries of the Drilling Blocks to project not only *westward* from the shore but also *eastward* so as to allow not only that part of Peace River south of Township 29/30 but also that part north thereof to be included in the lease, would be tantamount to rewriting the explicit terms of the contract.

We adhere to our former opinion as clarified herein. The petition for rehearing is denied.

WIGGINTON and CARROLL, DONALD K., J.J., Concur.

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,
IN AND FOR LEON COUNTY, FLORIDA.
IN CHANCERY.

No. 20492.

COASTAL PETROLEUM COMPANY, a Florida corporation,
Plaintiff,

v.

THE TRUSTEES OF THE INTERNAL IMPROVEMENT FUND OF THE STATE OF FLORIDA, ET AL., *Defendants.*

Final Decree

This is one more in a long series of cases involving the validity and construction of certain leases executed by the Trustees of the Internal Improvement Fund authorizing exploration for and production of minerals from sovereignty bottoms.

On October 4, 1941, the Trustees granted to Arnold Oil Explorations, Inc., an "exploration contract for oil, gas and minerals and option to lease." Out of this initial contract and a similar contract authorized January 6, 1942, relating to certain named lakes, there eventually evolved three drilling leases bearing numbers 224-A, 224-B, and 248, which, as modified on February 27, 1947, constitute the formal evidence of the present rights of the plaintiff, Coastal Petroleum Company, successor to Arnold Explorations, Inc. The word "plaintiff" will be used to indicate either corporation owning the contract rights referred to at the time mentioned.

The basic validity of the contracts was established in Watson v. Holland, 20 So. 2d. 388.

The scope of the rights granted in relation to the minerals which might be produced was determined in Collins v. Coastal Petroleum Co., 118 So. 2d. 796.

At least a partial settlement of difference between the parties as to what substances were embraced in the term

"minerals" was reached in Coastal Petroleum Co. v. Bryant, Circuit Court, Leon County #18569.

The present litigation requires a determination of the territorial scope of the lease numbered 224-B, specifically as to whether or not it embraces Lake Hancock, a meandered body of navigable inland water in Polk County, the bottom of which is admittedly sovereignty lands.

Peace River (or Creek) runs a little less than two miles south of Lake Hancock, and the lake is drained into Peace River by a stream called Cohanzy Creek. Peace River runs southerly from Lake Hancock and empties into the Gulf of Mexico through Charlotte Harbor.

Lease No. 224-B contains the following grant:

> ". . . . Trustees, under authority of Chapter 20680, Laws of Florida, Acts of 1941, have leased, and by these presents do hereby lease, unto said Lessee . . . those certain areas referred to in said Exploration Contract as Drilling Blocks and more particularly described as follows, to wit:
>
> "All water bottoms of the Gulf of Mexico within three leagues (10.36 statute miles) of the ordinary high water mark of the outermost shore included within Drilling Blocks 5, 6, 7 and 8 inclusive as said drilling blocks appear upon a map which is attached hereto and made a part of this lease.
>
> "Also all submerged lands and water bottoms of all bays, sounds and bayous of the Gulf, and adjacent Government waterfront lots contiguous to the water bottoms of the Gulf of Mexico herein first described in Drilling Blocks 5, 6, 7 and 8 as said drilling blocks appear upon a map which is attached hereto and made a part of this lease.
>
> "Also the bottoms of and water bottoms adjacent to the rivers hereinafter named which flow through

natural channels in the Gulf of Mexico, to wit: Myakka, Manatee, Little Manatee, Alafia, Caloosahatchee (from its mouth to LaBelle Bridge), Peace River to Township 29/30, included within said Drilling Blocks 5, 6, 7 and 8 as shown on said map.

"The Lessor finds and it is agreed that Lease 224-B prior to modification was intended to include all lands submerged and unsubmerged which were included in Lease 224-B prior to modification including but not by way of limitation all areas described therein as Drilling Blocks 14-A to 24-A inclusive, Drilling Blocks 1-B to 7-B inclusive, the south portion of Drilling Block 8-B and all of Drilling Blocks 1-C and 2-C are included herein.

"This lease covers the area included between the northern boundary of Lease 224-B prior to modification, which is the projection westward from the shore of the township line between Townships 25 and 26 South; the southern boundary of said lease prior to modification, which is Latitude 26° North; the western, off-shore boundary, shall be a line 10.36 statute miles seaward from the outermost land; the eastern boundary shall include the areas as described in Exploration Contract No. 224, dated October 4, 1941.

"Drilling Block No. 5 of said lease shall include the area as follows:

"Bounded on the north by the southern boundary of Lease No. 224-A prior to modification, which is the projection westward from the shore of the township line between Townships 25 and 26 South; on the south by the projection westward from the shore of the township line between Townships 31 and 32 South; the western, or off-shore boundary, shall be a line 10.36 statute miles seaward from the outermost land; the eastern boundary shall include the area as described in Exploration Contract No. 224, dated October 4, 1941.

"Drilling Block No. 6 of said lease shall include the area as follows:

"Bounded on the north by the southern boundary of Drilling Block No. 5 as herein defined; on the south by the western projection from the shore of the township line between Townships 38 and 39 South; the western, or off-shore boundary, shall be a line 10.36 statute miles seaward from the outermost land; the eastern boundary shall include the area as described in Exploration Contract No. 224, dated October 4, 1941.

"Drilling Block No. 7 of said lease shall include the area as follows:

"Bounded on the north by the southern boundary of Drilling Block No. 6 as herein defined; on the south by the western projection of the township line between Townships 44 and 45 South; the western, or off-shore boundary, shall be a line 10.36 statute miles seaward from the outermost land; the eastern boundary shall include the area as described in Exploration Contract No. 224, dated October 4, 1941.

"Drilling Block No. 8 of said lease shall include the area as follows:

"Bounded on the north by the southern boundary of Drilling Block No. 7 as herein defined; on the south by the southern boundary of Lease No. 224-B prior to modification, which is Latitude 26° North; the western, or off-shore boundary, shall be a line 10.36 statute miles seaward from the outermost land; the eastern boundary shall include the area as described in Exploration Contract No. 224, dated October 4, 1941.

"All rivers, sloughs, arms and overflow lands included in the above blocks are to be considered a part of that particular drilling block into which the respective river, slough, arm or overflow land drains or empties.

"The lease and its subdivision into drilling blocks are shown on a map attached hereto and made a part hereof.

"Each drilling block shall comprise all coastal off-shore areas of the Gulf of Mexico, together with all bars, islands and adjacent Government waterfront lots contiguous thereto; all bays, bayous, sounds and inlets of the Gulf, together with all connecting sloughs, flats and/or the overflow and/or submerged lands, all bars and islands and all adjacent Government water-front lots contiguous to such areas; all rivers and lakes named herein, together with all connecting sloughs, arms and overflow lands located in such waters."

It will be readily observed that the language employed to describe the area, the public bottoms of which are included in the lease, is none too definite. The Court is of the opinion that the most specific language is that found in the underscored paragraph. This paragraph delineates a substantial area of the State the public bottoms in which are subject to the lease and provides four boundaries of the area sought to be described:

1. A "north" line corresponding to the township line between Townships 25 and 26 south. This line may be readily located.

2. The "south" line is equally definite. It is Latitude 26° north.

3. The third or western boundary is not too difficult. It is an irregular line 10.36 miles west of and corresponding to the contour of the off-shore boundary of the outermost land constituting a part of the State of Florida.

4. The fourth boundary necessary to complete the description is a line that "shall include the areas described in Exploration Contract No. 224, dated October 4, 1941."

It will be observed that this description does not attempt to *adopt* the *description of land* contained in the Exploration Contract. It calls for a *line* that (when considered with the other three calls stated) will *include* the *areas* described in the Exploration Contract.

It is, therefore, necessary to refer to the Exploration Contract to locate the "areas" there described and then draw a line between the designated township line on the north and latitude line on the south so as to include those areas described in the Exploration Contract.

The Exploration Contract refers to three general types of bottoms being leased: "OFF-SHORE AREAS"; "BAYS, SOUNDS, BAYOUS"; and "RIVERS AND LAKES". Of course, the first two give us no aid in determining the east boundary of the land "areas" embraced in Lease No. 224-B. But the third type of bottoms referred to in the Exploration Contract is determined as follows:

> "RIVERS AND LAKES:
>
> "The bottoms of and water bottoms adjacent to only such Rivers and Lakes as are specifically named herein and which flow through natural channels into the Gulf of Mexico, as follows:
>
> "Myakka, Manatee, Litle Manatee, Alafia, Hillsboro, Anclote, Weekiwatchee, Crystal, Steinhatchee, Suwannee, Aucilla (from its mouth to natural bridge), Ochlocknee (from its mouth to the power dam), Wacissa (from its mouth to the South Boundary of Sec. 1, of Township 2, South of Range 3 East), Caloosahatchee (from its mouth to LaBelle bridge), Crooked, Carrabelle, Peace, Withalacoochee (from its mouth to the power dam), Homosassa, Price, Hollis, Little Homosassa, Salt and St. Martin's Rivers.
>
> "It is specifically understood and agreed that this contract shall not apply to any lake, whether named herein or not, lying within, or partially within, the

boundaries of any State Park, nor shall this contract apply to those parts of any river or stream, whether named herein or not, within the boundaries of any State Park, nor to the upstream portion of any river or stream passing into or through any such State Park."

An examination of this description in connection with a map which is attached to and made a part of Lease No. 224-B discloses that included in the list of rivers named is practically, if not literally, every river or creek emptying into the Gulf of Mexico which is large enough to be meandered for any part of its length *or* which is draining a lake of substantial size. Further examination of the map also clearly indicates that the topography of the area is such that a line can readily be drawn for the township line between townships 25 and 26 south and latitude 26° north which will include all those lakes and streams without including any lake or river that is drained eastward into Lake Okeechobee or the Atlantic Ocean.

It is probable that no two engineers called upon to locate this line would put it in exactly the same place. But they could not differ in its location to such an extent as to arrive at any different conclusion as to the location of any body of water with reference to the line. When the purpose of the line is considered, this meets all the accuracy needed to establish the rights of the parties.

The purpose of the description—the designation of that area of the State the public bottoms of which are included in the lease—is reasonably clear from an examination of the lease itself and the exploration agreement to which it refers.

It is doubtful if the description in the lease is sufficiently indefinite to justify extrinsic evidence to aid in determining its meaning. But the Court has received evidence from both parties.

Engineering testimony for the plaintiff clarifies the ability to accurately locate the area described in the lease and that such area includes Lake Hancock.

Evidence on behalf of the defendants consists principally of showing that in the official U. S. Surveys Peace River was not meandered beyond a point a few miles from its mouth; that State and Federal land grants above this point do not except or exclude any part of Peace River so that the bottom of Peace River is privately owned for some forty miles below Lake Hancock.

The defendants take the position that Lake Hancock is not included within the terms of Lease 224-B for two reasons:

They argue that the description refers to "the bottoms of and water bottoms adjacent to the Rivers, etc." Based upon this clause of the lease and the proof that no part of the bottom of Peace River within 40 miles of Lake Hancock is sovereign bottoms and the fact that the reference to Peace River specifies "to Township 29/30" all combine to indicate that the lease was never intended to cover Lake Hancock which is not "adjacent" to any water bottoms *owned by the State* in any of the rivers named and is some 8 to 10 miles north of "Township 29/30". This argument cannot be accepted. It distorts and over-emphasizes parts of the lease. As is above noted, the paragraph of the lease which most clearly includes Lake Hancock refers back to the exploration agreement which refers to Peace River in its entirety and describes the "water bottoms adjacent to . . . Peace" River. There is no requirement that all the bottoms leased be contiguous. Peace River runs within a comparatively short distance of Lake Hancock and is directly connected to the lake and receives the waters of the lake through Cohanzy Creek and empties them into the Gulf of Mexico.

The word "adjacent" has a somewhat flexible meaning and must be construed in the context in which it is used.

The Exploration Contract included the Gulf coast from St. George's Island near Apalachicola to a point in Collier County and the watersheds of a large number of rivers. In a contract relating to so vast an area it is more reasonable to construe the phrase "adjacent to . . . Peace" River as including Lake Hancock which lies less than two miles from Peace River and is drained directly into Peace River as being within the contemplation of the parties than otherwise.

The negotiations leading up to the contracts, the obvious purposes of the parties and nature of the subject matter fortify this conclusion.

The minutes of the Trustees show that negotiations began with an application for an Exploration Contract:

> "2. Arnold Oil Explorations, Inc: An area commencing at a line on the West between Ranges 8 and 9 West and running to Parallel 26 degrees North latitude, also in Lakes Okeechobee, Kissimmee, Istokpoga, Tohopekaliga, East Tohopekaliga, Apopka, George, Weir and Lochloosa."

This application, it will be observed, sought an Exploration Contract on the coastal area and certain very large lakes. The Exploration Contract entered into on the following October 4, 1941, embraced the Gulf coast area but did not include the lakes named in the original application. This caused plaintiffs much concern as is evidenced by a letter to the Trustees bearing date of October 4, 1941, in which it said: "Your Honorable Board has elected to exclude all lakes and rivers the waters of which do not drain into the Gulf of Mexico from the contract being executed in our favor."

This clearly implies that the Exploration Contract of October 4, 1941, did include those lakes which drain into the Gulf.

After some further negotiations the Trustees did lease to plaintiff the bottoms of nearly all the lakes requested in the original application plus some others, but in a separate lease—#248.

The net result is that the construction now placed upon the leases by the Trustees would indicate that they intended to lease to plaintiff the public bottoms of the Gulf, its bays and inlets, all navigable rivers flowing into the Gulf and the major lakes lying easterly of the Gulf watershed but did not intend to lease the smaller but navigable lakes draining into the Gulf through the named rivers.

Following this theory the Trustees take the position that no lakes are included in drilling lease #224-B. However, an examination of their minutes shows that on December 20, 1949, they considered Leases #224-A and #224-B. They received a report from their Engineer and Secretary, the late F. C. Elliott, in regard to these leases and certain abatement of rentals due to the Tidelands Decision. In that report Mr. Elliott listed in Lease #224-A, 9060 acres of "Rivers and Lakes" and in Lease #224-B, 11,560 acres of "Rivers and Lakes." The following also transpired:

> "Mr. Mayo asked if the lakes and rivers were being considered in the abatement of rentals, to which Mr. Caldwell replied that it did not; only lands designated as submerged off shore areas would be covered by the abatement clause."

Nothing could more clearly indicate that the Trustees considered that some lakes were within the terms of these leases. If any lake is embraced within the grant of Lease #224-B no reason appears to justify the exclusion of Lake Hancock.

If language in a contract is of doubtful meaning the courts will examine the circumstances under which the contract was entered into, the purposes for which the con-

tract was made and the means employed to accomplish these purposes in an effort to ascertain the intent of the contracting parties. When this is done the present position of the Trustees does not appear logical or reasonable.

During the years in which these contracts were negotiated and entered into and modified the obvious purpose of the plaintiff was to secure the right to explore for valuable minerals, primarily oil and gas but including others, on as large a part of the public bottoms of the State as possible to the end that it could explore for these minerals and, if they were found, have the exclusive right to exploit them on a royalty basis. The primary object of the State officials was to secure the necessary exploration to determine if these minerals existed and, if so, to encourage their development in the interest of the economy of the State. To accomplish these aims the parties made these contracts giving plaintiff exclusive rights on enormous areas subject to plaintiff making required exploration and paying specified rentals. Admittedly, these leases included all of the Gulf Coast from St. George's Island to a point in Collier County, the Gulf bottoms, and the bottoms of bays, inlets and navigable rivers flowing into the Gulf. These leases also included the major inland lakes. It is illogical to conclude that the parties intended to include all of these public bottoms and to exclude the small but navigable lakes which are found in the Gulf Coast watershed and which drain into the Gulf through the rivers which, to the extent owned by the State, were included in the leases.

It is, therefore,

CONSIDERED, ORDERED, ADJUDGED, DECREED and DECLARED:

1. The bottom of Lake Hancock in Polk County is included within the public bottoms described in Lease #224-B, as modified, executed February 27, 1947, between the Trustees of the Internal Improvement Fund of Florida and Coastal Petroleum Company, a corporation.

2. Nothing in this decree shall be construed as adjudging any right in the plaintiff in its explorations for or exploitation of any minerals in the bottom of Lake Hancock to in any way impair or infringe upon the riparian rights of persons owning land touching upon the said lake.

DONE in Chambers at Tallahassee, Leon County, Florida, this 17 day of December, A. D. 1965.

/s/ HUGH M. TAYLOR
Hugh M. Taylor
Circuit Judge

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

82°00'
27°07'30"
402000m. E.
R.23 E.
57'30" R. 24 E.
(NOCATEE)
55'
900000m. N.
T. 38 S.
T. 39 S.
Grass Lake
Hull
Hull Cem.
Ft Winder Ch
Horse Creek
Hull Creek
PEACE RIVER
Peace Creek
BR 13
BM 11
SEABOARD AIR LINE
ATLANTIC COAST LINE
Ft Ogden
Ft Ogden Cem.
BM

FT. OGDEN QUADRANGLE
FLORIDA
7.5 MINUTE SERIES (TOPOGRAPHIC)

BR 13
BM 11
SEABOARD AIR LINE
ATLANTIC
BM
Ft Ogden
Ft Ogden Camp
Lettuce Lake
BM
Southfort
Branch
Turnton
(MURDOCK SE)
BR 27
BR 34
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

Ft Ogden
18
17
16
15
14
13
19
20
21
22
23
24
Southport
30
29
28
27
26
25
ATLANTIC
BM
BR 20
BR 34
(ARCADIA SE)

(MURDOCK)

2°30"

T. 39 S.

T. 40 S.

PEACE RIVER

Boca Grande Lake

DE SOTO CO

CHARLOTTE CO

Jim Long Lake

ATLANTIC COAST LINE

BM

Peace River

Myakka River

Myakka

25

30

29

28

36

31

32

33

1

2

6

5

4

12

7

8

9

DE SOTO CO
CHARLOTTE CO

T. 39 S.
T. 40 S.

BM 41

BM 24

Bunch

30 29 28 27 26 25

31 32 33 34 35 36

5 4 3 2

2'30"

DE SOTO CO.
CHARLOTTE CO.

T. 39 S.
T. 40 S.

Myakka River

Atlantic Coast Line

Morgantown

Whidden Bay

970 000 FEET

27°00'
82°00'

510 000 FEET

R. 23 E.

CLEVELAND 2.1 MI.
PUNTA GORDA 7.8 MI.

57'30"

R. 24 E.

(CLEVELAND)

55'

(PUNTA GORDA)

Mapped, edited, and published by the Geological Survey

Control by USGS and USC&GS

Culture and drainage in part compiled from aerial photographs taken 1951–1952. Topography by planetable surveys 1956

Polyconic projection. 1927 North American datum
10,000-foot grid based on Florida coordinate system, west zone
1000-meter Universal Transverse Mercator grid ticks,
zone 17, shown in blue

TRUE NORTH
MAGNETIC NORTH

APPROXIMATE MEAN DECLINATION, 1956

SCALE 1:24000

1 0 1 MILE

1000 0 1000 2000 3000 4000 5000 6000 7000 FEET

1 .5 0 1 KILOMETER

CONTOUR INTERVAL 5 FEET
DATUM IS MEAN SEA LEVEL

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
FOR SALE BY U. S. GEOLOGICAL SURVEY, WASHINGTON 25, D. C.
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

DE SOTO CO
CHARLOTTE CO

T. 39 S.
T. 40 S.

R. 24 E.

(CLEVELAND)

55'

INTERIOR-GEOLOGICAL SURVEY, WASHINGTON, D. C.-1957-AMS
MR 6005

27°00'

81°52'30"

2987000m.N.

413000m.E.

SCALE 1:24000

1 0 1 MILE

1000 0 1000 2000 3000 4000 5000 6000 7000 FEET

1 .5 0 1 KILOMETER

CONTOUR INTERVAL 5 FEET
DATUM IS MEAN SEA LEVEL

ROAD CLASSIFICATION

Heavy-duty _____ Light-duty _____

Unimproved dirt - - - - - -

U. S. Route

FLORIDA

QUADRANGLE LOCATION

FT. OGDEN, FLA.

N2700—W8152.5/7.5

1956

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS